

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SCIENTIFIC COMPUTING ASSOCIATES,
INC., et al.,

Plaintiffs,

v.

GREGORY R. WARNES,

Defendant.

ORDER

07-CV-6351T

By order dated August 30, 2007, the above-captioned matter has been referred to the undersigned for the supervision of pretrial discovery and the hearing and disposition of all non-dispositive motions, pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B). (Docket # 9).

On May 14, 2010, plaintiffs filed a motion for leave to serve additional interrogatories to defendant Gregory Warnes. (Docket # 87). This Court then issued a motion scheduling order which granted defendant until June 9, 2010 to oppose the motion. (Docket # 89). This Court has received no response from defendant, thus his failure to oppose the pending motion may be fairly construed as a lack of opposition to the requested relief or as a waiver of his right to be heard. *See, e.g., TCPIP Holding Co. v. Haar Commc'ns Inc.*, 2004 WL 1620950, *4 (S.D.N.Y. 2004) (defendant's failure to respond to motion was sufficient basis to grant motion by default); *Loew v. Kolb*, 2003 WL 22077454, *1 (S.D.N.Y. 2003) (same). Accordingly, plaintiff's motion for leave to serve additional interrogatories on defendant Warnes (**Docket # 87**) is **GRANTED**, and those interrogatories shall be answered by no later than thirty days from the

date of service. In addition, the oral argument currently scheduled for **June 29, 2010 at 2:00**

p.m. is hereby **CANCELLED**.

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
June 21, 2010